

TITLE TEN - Authorities, Boards and Commissions

- Chap. 260. Authorities.
- Chap. 262. Planning Commission.
- Chap. 264. Board of Zoning Appeals.
- Chap. 266. School Board.
- Chap. 268. Library Board.
- Chap. 270. Mental Health and Mental Retardation Board.
- Chap. 272. Board of Equalization.
- Chap. 274. Agricultural and Forestal District Advisory Committee.
- Chap. 276. Board of Road Viewers.
- Chap. 278. Social Services Board.
- Chap. 280. Transportation District Commission.

CHAPTER 260 Authorities

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|--------|--------------------------------------|--------|------------------------------|
| 260.01 | Sanitation Authority. | 260.03 | Dulles Town Center Community |
| 260.02 | Industrial Development
Authority. | | Development Authority. |

CROSS REFERENCES

- Water and Waste Authorities Act - see Code of Va. ' ' 15.2-5100 to 15.2-5158
- Department of Economic Development - see ADM. Ch. 236
- Water - see S.U. & P.S. Ch. 1040 et seq.
- Sewers - see S.U. & P.S. Ch. 1060 et seq.

260.01 SANITATION AUTHORITY.

(EDITOR'S NOTE: Pursuant to the Virginia Water and Sewer Authorities Act (Title 15.1, Chapter 28, now the Virginia Water and Waste Authorities Act, Title 15.2, Chapter 51, of the Code of Virginia of 1950, as amended), the Loudoun County Sanitation Authority was created by a Resolution of the Board of Supervisors passed May 4, 1959, for the purpose of acquiring, constructing, operating and maintaining an integrated water system for supplying and distributing water in the County, and an integrated sewerage system and sewage disposal system for the County, and for the purpose of exercising the powers conferred by such Act in relation to the foregoing.

The Articles of Incorporation of the Authority were amended by a Resolution of the Board passed May 18, 1965, and were again amended and restated by a Resolution of the Board passed February 2, 1976.)

260.02 INDUSTRIAL DEVELOPMENT AUTHORITY.

(EDITOR'S NOTE: Pursuant to the Industrial Development and Revenue Bond Act (Title 15.1, Chapter 33, now Title 15.2, Chapter 49, of the Code of Virginia of 1950, as amended), the Industrial Development Authority of Loudoun County, Virginia, was created by an Ordinance of the Board of Supervisors passed March 5, 1974. Ordinance 83-03, passed February 22, 1983, ratified the creation of the Industrial Development Authority, required approval by the Board of Supervisors of bonds issued by the Authority and imposed restrictions on the use of bond proceeds. Ordinance 83-03 is set forth in full below.)

(a) Purpose and Intent.

- (1) The purpose of this section is to affirm and ratify the creation and operation of an Industrial Development Authority of Loudoun County, Virginia, hereinafter sometimes referred to as "the Authority," and to provide for approval by the Board of Supervisors of industrial development bonds issued by the Authority according to criteria limiting the number and type of facilities to be financed thereby.
- (2) It is intended by this section that industrial development bonds issued by the Authority shall be in full compliance with the provisions of State and Federal law and that the income, including any profit made on the sale thereof, from all bonds issued by the Authority, shall at all times be exempt from taxation by the Federal Government, the Commonwealth or any political subdivision thereof.

(b) Creation of Authority.

- (1) By this section, there is affirmed and ratified the creation of a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in the Industrial Development and Revenue Bond Act, constituting Chapter 33 of Title 15.1, now Chapter 49 of Title 15.2, of the Code of Virginia of 1950, as amended, except as such powers are limited herein.
- (2) The name of the political subdivision so created shall be the Industrial Development Authority of Loudoun County, Virginia.
- (3) The Board of Supervisors hereby reserves the right to limit the type and number of facilities which the Authority might otherwise finance with industrial development bond issues.

(c) Requirements.

- (1) All industrial development bonds issued by the Authority after the effective date of this section (Ordinance 83-03, passed February 22, 1983) shall be approved by the Board of Supervisors.
- (2) In furtherance of the purposes of this section, the following requirements shall apply to the issuance of any industrial development bond by the Authority:
 - A. The Authority shall give public notice of its intent to issue an industrial development bond and shall advertise the same for public hearing once a week for two consecutive weeks in a newspaper having general circulation in the County. The hearing shall occur not less than six days nor more than twenty-one days after the second advertisement has appeared in such newspaper.

- B. After conducting a public hearing on the matter, the Authority shall notify the County Administrator of its intent to issue an industrial development bond. Such notice shall certify to the Board of Supervisors that the applicant has submitted a complete application for the issuance of an industrial development bond and that, based upon a finding that issuance of the bond would further the purposes of the Industrial Development and Revenue Bond Act (Section 15.2-4900 et seq. of the Code of Virginia of 1950, as amended), the Authority has issued a resolution of inducement on the application. The notice shall be accompanied by a report of the public hearing, setting forth a summary of any presentation made during the course of the hearing and of any questions directed to persons appearing, and subsequent responses thereto.
 - C. After a public hearing has been conducted on the matter, the Board of Supervisors shall grant or deny approval of the issuance of an industrial development bond to finance the proposed facility.
 - D. The County Administrator shall promptly provide the Authority with a written notification of the decision of the Board of Supervisors.
 - E. The Authority shall notify the Board whenever an approved industrial development bond is issued. The Authority shall also provide an annual report of the current status of all approved industrial development bonds.
- (d) Criteria for Approval.
- (1) The Board of Supervisors may withhold approval of an industrial development bond issue if limitation of the type and number of facilities which the Authority proposes to finance is deemed to be in the best interest of the community.
 - (2) No industrial development bond shall be approved for issuance where more than twenty-five percent of the proceeds of such bond is to be applied to the acquisition, purchase, expansion or construction of one or more of the following types of facilities:
 - A. An automobile sales or service facility;
 - B. A facility furnishing financial services;
 - C. A facility that provides recreation or entertainment; or
 - D. A facility, other than a grocery store, that provides retail food or beverage services.
 - (3) No industrial development bond shall be approved for issuance where any proceeds of the bond will be used to finance the acquisition, purchase, expansion or construction of any of the following types of facilities:
 - A. A private or commercial golf course;
 - B. A country club;
 - C. A massage parlor;
 - D. A tennis club;
 - E. A racquet sport facility, including handball;
 - F. A skating facility, including skateboard;
 - G. A hot tub facility;
 - H. A suntan facility;
 - I. A racetrack;
 - J. A cemetery;

- K. An airplane;
 - L. A skybox or other private luxury box;
 - M. A health club facility;
 - N. A facility primarily used for gambling; or
 - O. A store, the principal business of which is the sale of alcoholic beverages for consumption off the premises.
- (4) No inducement resolution for an industrial development bond issue shall be approved for financing the acquisition, purchase, expansion or construction of a facility for a commercial retail use. As used in this paragraph, "commercial retail use" means a retail trade, including the sale of goods or equipment directly to the general public; an entertainment or recreational service; or a personal service which is performed at a residential dwelling or for an individual for personal or family use. The term does not include an enterprise whose primary purpose is to provide lodging, shelter or conference facilities, with or without board, on a fee basis, to transient guests; to provide business services or to sell goods or services to retailers, or to industrial, commercial, institutional, farm or professional business users, or to other wholesalers, or to persons acting as brokers or agents in buying merchandise for or selling merchandise to such persons or users; or to provide insurance, legal, health, investment management, real estate, news gathering or dissemination or social services to any person, user or other entity.
(Ord. 84-09. Passed 10-15-84; Ord. 98-01. Passed 3-18-98.)

260.03 DULLES TOWN CENTER COMMUNITY DEVELOPMENT AUTHORITY.

(a) Creation of Authority. The Dulles Town Center Community Development Authority (hereinafter the "Authority") is hereby created in accordance with the applicable provisions of Sections 15.2-5100 et seq. of the Code of Virginia (1950), as amended. The Authority is and shall be a body corporate and politic.

(b) Boundaries of District. The properties identified by boundary in Exhibit I, attached to Ordinance 98-02, passed April 1, 1998, entitled Dulles Town Center Community Development Authority Assessment District, are hereby included in and designated as the Dulles Town Center Community Development Authority Assessment District (hereinafter the "District").

(c) Facilities and Services. The Authority is created solely for the purpose of financing and constructing, and maintaining if necessary, certain public improvements to be dedicated for public use. The Authority is authorized to finance and construct, and maintain if necessary, the public roads (including bridges, curbs, gutters, sidewalks, and traffic signals), public water and sewer lines and facilities, public storm drainage and stormwater management facilities, and public utilities more particularly described in Exhibit 2, attached to Ordinance 98-02, passed April 1, 1998.

(d) Benefits. The provision of such public facilities and services within the District is expected to foster and promote economic development in the District and within the County of Loudoun, Virginia (hereinafter the "County"), which is likely to increase property values and business opportunities for property owners in the District and result in an increase in tax and other revenues to the County. The proposed transportation improvements would substantially improve traffic movement through the District.

(e) Powers and Membership of the Authority.

- (1) The powers of the Authority shall be as provided in Sections 15.2-5110 et seq. and 15.2-5158 of the Code of Virginia (1950), as amended. The powers of the Authority shall be exercised by five members.
- (2) All members shall be appointed by the Board of Supervisors of Loudoun County, Virginia (hereinafter the "Board of Supervisors"), in accordance with the requirements of Sections 15.2-5113 and 15.2-5154 of the Code of Virginia of 1950, as those provisions may be recodified or amended. The Board of Supervisors may require that any or all members of the Authority shall be residents of the Commonwealth of Virginia. To the extent required by law, a majority of the members shall be landowners within the District, or their designees or nominees.
- (3) The initial members of the Authority and their respective terms are established in the Articles of Incorporation attached to Ordinance 98-02, passed April 1, 1998, as Exhibit 3, and approved with this section.
- (4) The successor of each member shall be appointed by the Board of Supervisors for a term of four years and until his or her successor shall be duly appointed and qualify, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall be eligible for reappointment.
- (5) Each member of the Authority shall receive such compensation for his or her services as a member as may be provided from time to time by resolution duly adopted by the Board of Supervisors. Each member shall be reimbursed the amount of his or her actual expenses necessarily incurred in the performance of his or her duties.

(f) Special Assessment. Pursuant to an agreement with the landowner who is the owner of all land within the District, special assessments for public improvements are hereby established and apportioned in accordance with Exhibit 4, "Rate and Method of Apportionment of Assessments," attached to original Ordinance 97-13, passed November 5, 1997. The special assessments shall be recorded in connection with the issuance of bonds by the Authority for the purposes of this section. The special assessments shall be liens on the real property in the district in accordance with the provisions of Va. Code ' 15.2-2404 et seq. The special assessment payments shall be collected within the District at the same time as the County's general real property tax is collected and all rules and regulations of the County regarding the levy and collection of taxes shall apply to such special assessment. The Treasurer is directed to segregate the proceeds of the special assessment collected in the District on books and records of the County so as to ensure that the proceeds are expended solely within the District for the purposes authorized by this section and applicable statutes. The Authority shall reimburse the County annually for its administrative costs of the collection and payment of the assessments.

(g) Conditions of Authority Financing. The Authority shall not issue bonds and utilize bonds nor create a special assessment until the petitioner has established to the satisfaction of the Board of Supervisors that the following have occurred:

- (1) Reciprocal easement agreements with the anchor tenants (department stores) to be located at the enclosed shopping mall, and supplemental agreements with the anchor tenants, if any, are signed and in place; and
- (2) A financial institution has issued a commitment letter for the construction of the enclosed shopping mall; and
- (3) An agreement has been executed with a contractor for the construction of the enclosed shopping mall.

(Note: By resolution adopted on February 18, 1998, the Board of Supervisors found that the conditions of financing as set forth in this subsection (g) have been satisfied.)

(h) Plan of Finance. The Authority improvements are proposed to be funded through bonds issued on behalf of the Authority and supported by the special assessments provided in subsection (f) hereof and Exhibit 4, attached to original Ordinance 97-13, passed November 5, 1997. Any bonds issued by the Authority shall be a debt of the Authority and not the County. The County shall not retire any part of the bonds or pay any debt service of the Authority out of revenues or funds derived from sources other than the special tax or special assessment authorized in '15.2-5158 of the Code of Virginia.

(i) Consent of the Board of Supervisors. The Authority may not issue bonds or debt, enter into arrangements or agreements for legal and financial services or agree to any reimbursement within the consent of the Board of Supervisors.

(j) Expansion and Dissolution of the District. The County may expand or dissolve the boundaries of the District upon giving notice as required by the Code of Virginia.

(k) Articles of Incorporation. The Articles of Incorporation for the Authority, attached to Ordinance 98-02, passed April 1, 1998, as Exhibit 3, are hereby approved and shall be filed with the State Corporation Commission by the Authority.

(l) Meetings. All meetings of the Authority shall be conducted in Loudoun County, Virginia. The Authority shall provide written notice of any meeting to the Chief Administrative Officer of the County, or his or her designee, at least seven days prior to any meeting.

(m) Statutory References. All references to the Code of Virginia in this section include amendments and recodification of provisions applicable to the Authority.

(n) Exhibits. The following are included as Exhibits to this section:

Exhibit 1. Dulles Town Center Community Development Authority Assessment District Boundaries revised through February 27, 1998;

Exhibit 2. Authority Improvements;

Exhibit 3. Articles of Incorporation, including the district boundaries revised through February 27, 1998; and

Exhibit 4. Rate and Method of Apportionment (Revised).

Each is hereby adopted as part of this section, by reference.
(Ord. 98-02. Passed 4-1-98.)